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June 21, 2021

By ECF

Judge Kenneth M. Karas
United States District Judge
United States District Court
Federal Building and United States Courthouse
300 Quarropas Street
White Plains, NY 10601-4150

MEMO ENDORSEMENT

Re: Danielle Warren v. Ultimate Fitness Group, LLC, *et al.*
Case No: 19-cv-10315 (KMK)

Dear Judge Karas:

Plaintiff is submitting this letter request with the consent of the Florida Defendants regarding Plaintiff's motion to amend the complaint scheduled for oral argument tomorrow at 11:00 a.m.

This argument on Plaintiff's motion was previously scheduled to be heard on May 26, 2021 (see Doc. 59). However, Plaintiff's principal attorney had just endured a serious surgical procedure on May 18, 2021, and the oral argument was rescheduled for tomorrow at 11:00 a.m. (Doc. 70).

However, due to several recent material developments, Defendants Ultimate Fitness Group, OTF Royalties, LLC and OTF Franchisor, LLC ("Florida Defendants")¹ and Plaintiff are jointly requesting an adjournment of the oral argument on this motion for the following reasons.

First, while Plaintiff's principal attorney's surgery was successful, he has just begun post-surgical adjuvant treatments that have rendered him unwell, so he has not fully returned to work.

Second, Plaintiff and the Florida Defendants are currently engaged in ongoing settlement discussions which, if successfully consummated, would render this motion entirely moot.

Third, as we indicated in a letter to Hon. Judith McCarthy dated June 17, 2021 (Doc. 71), it has just come to our attention late last week that Defendant HV Poughkeepsie, Inc. has recently been sold, and that the remaining two NY Defendant corporations (Defendants HV Newburgh, LLC and HV Monroe, LLC) may also have been sold, or are actively in the process of being sold.

Plaintiff was not notified about this sale(s) by any of the Defendants² and we only learned of this Defendant sales transaction through an emailed announcement sent by the new franchisee

¹ The remaining Defendants, HV Newburgh, LLC, HV Monroe, LLC, HV Poughkeepsie, Inc. and John Gregorio ("New York Defendants"), did not submit answering papers and did not otherwise appear in connection with this motion.


² The Florida Defendants, as the franchisors, would have to have been notified of the sale and have approved it.

owners to all current and former members of the HV Poughkeepsie, Inc. studio. As a result of this sale transaction taken in the midst of this litigation, Plaintiff may well need to again amend the complaint to include the purchasing entities, and Plaintiff immediately requested from Defendants all documentation regarding the sale or sales of the NY Defendant companies.

For all the reasons detailed above, we respectfully request a relatively brief adjournment of the oral argument on the motion to amend until these material issues may be addressed and resolved.

The Court grants the request for an adjournment.
The Court will hold Oral Argument on the
Motion To Amend on July 28, 2021 at 10:00am.

White Plains, NY
June 21, 2021

SO ORDERED

KENNETH M. KARAS U.S.D.J.

Respectfully submitted,

/s/ Jack Tuckner

Jack Tuckner (JT 8898)

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